

Town of Acton

Special Town Meeting Warrant



Monday, December 3, 2018

**The Special Town Meeting will convene at 7:00 PM in the
Acton-Boxborough Regional High School Auditorium
36 Charter Road**

Notice of Special Town Meeting

Monday, December 3, 2018

7:00 PM

Acton-Boxborough Regional High School Auditorium
36 Charter Road

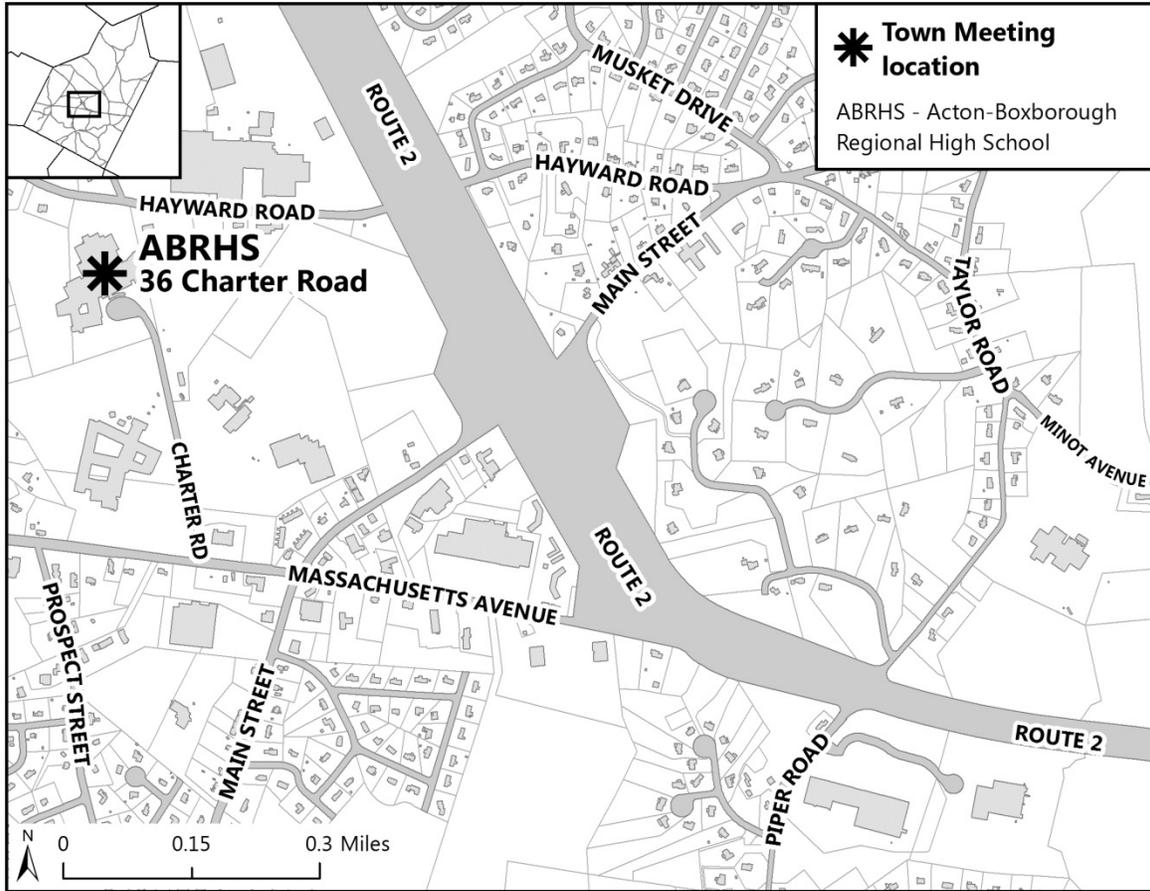


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Free Transportation to Town Meeting

Don't miss Town Meeting because you can't get a ride!



The Town of Acton is offering **free** door-to-door van rides to Town Meeting. The Meeting starts at 7:00 PM and generally concludes by 10:30 PM.

The MinuteVan will have a driver covering the hours from 6:15 PM – 10:30 PM for the first night of Town Meeting. The Dial-A-Ride dispatch service will be open until 4:00 PM on the day of the meeting. Rides can be booked with the MinuteVan dispatcher at (978) 844-6809 or on-line at www.minutevan.net. The service will run even if there are no reservations, as we will take walk-ons from Town Meeting that want a trip home. There will be no charge to passengers for any of these Town Meeting trips. When the van is not in use between 6:15 PM to 10:30 PM, it will be parked in the Acton-Boxborough High School parking lot where Town Meeting is being held. The driver will be waiting in the van for anyone that would like a ride home.

MinuteVan Dial-A-Ride is a unique transportation service offered by the Town of Acton. It is available to all residents Monday through Friday (except holidays) for rides around town and to nearby locations. Hours of operation are 8:00 AM – 11:00 AM and 1:15 PM – 6:15 PM. The Dispatcher is available Monday through Friday from 8:30 AM – 4:00 PM by calling (978) 844-6809. Trips within Acton cost \$2/trip, \$1/trip for seniors and disabled. Out-of-town trips (within 3.5 mile radius of Acton Town Hall) are \$4/trip, \$1.50/trip for seniors/disabled. Locations served include: West Concord Center, Emerson Hospital, Maynard Center, Skating Rink, the Food Pantry in Boxborough, and more. Policies may be reviewed online at www.minutevan.net.

Notes from the Town Clerk's Office

The Town Clerk's Office welcomes requests by the Acton community for special provisions in order for citizens to attend Town Meeting. Services provided include wheelchairs, a wheelchair lift, special check-in and seating for the mobility-impaired.

In order to accommodate as many citizens as possible, we ask that all requests be received by our office no later than Monday, November 26, 2018.

Parties needing support may contact the Town Clerk's Office at clerk@actonma.gov or (978) 929-6620.

Any person, committee or action group that would like to reserve a display table at Town Meeting needs to email a copy of their handout material, along with the request, to the Town Clerk in order to receive approval by the Town Moderator.

Requests need to be received by the Clerk's Office no later than Wednesday, November 28, 2018 to ensure coordination with Acton-Boxborough Regional High School staff to provide the requested number of tables.

We would like to thank the Acton Water District and Green Acton for providing reusable water bottles for the Board of Selectmen, Finance Committee and our staff. As a Green Community, we are happy to participate in this endeavor.

Board of Selectmen's Message

This Town Meeting Warrant is your invitation to participate in the legislative portion of Acton's Town government. Acton citizens have a cherished tradition of governing themselves by means of an Open Town Meeting. We encourage all Acton residents to attend. All registered voters are invited to participate in the debate and vote on the Articles presented. Other residents, even if they are not registered voters, are invited to attend and observe, or to view the proceedings on our government cable television channels, Comcast channel 99 and Verizon channel 41.

Town Meeting Dates, Times and Location

The Special Town Meeting will begin Monday, December 3 at 7:00 PM in the Acton-Boxborough Regional High School Auditorium. **Attendance is anticipated to be higher than average** – please arrive early to be checked-in by the Town Clerk's staff and to obtain additional information. Check-in will be open starting at 5:30 PM and take place in the cafeteria area.

Town Meeting Warrant and Procedures

The Town Meeting Warrant is the agenda for the meeting. It is drawn up by the Selectmen from various proposals made by the Selectmen, the School Committee, other Boards, staff and citizens. The Selectmen determine the order that the Articles appear in the Warrant. The Articles will be considered in the order in which they appear, unless the Moderator, or the Meeting itself, changes that order. Each article is intended to give fair notice of the topic to be discussed and voted upon, thus any motion made at Town Meeting under one of these articles must be found by the Moderator to be within the scope of the printed article. At Town Meeting, the motion made under each article will describe the specific proposed action. The wording of the motion, and any amendments that might be offered to the main motion, may differ from the exact wording of the article, but as indicated above must be within the scope of the article. Accordingly, it is suggested that each attendee listen closely to the reading of the motion, and any amendments made before voting.

Your attention is invited to the Warrant section on Town Meeting Parliamentary Procedure, serving as a basic guide to Town Meeting process written by the Town Moderator. The best debate is conducted by those who have informed themselves concerning the issues. Informed debate is delayed when speakers rise only to ask basic questions that could be individually addressed. To assist speakers to inform themselves in advance, and to avoid delays during the meeting engendered by persons seeking basic information, the Board of Selectmen strongly encourages and solicits questions in advance concerning any of the proposed Articles. Information regarding the Articles may be obtained from any of the contacts listed after each Article summary, or a general inquiry may be made to the Town Manager's Office at (978) 929-6611 or manager@actonma.gov for an appropriate referral.

Katie Green, Chair
Joan Gardner, Vice-Chair
Jon Benson, Clerk
Janet K. Adachi
Peter J. Berry

Board of Selectmen

Special Town Meeting Warrant

One or more of the following recommendations may appear at the end of an Article's summary:

Recommended	This board voted to recommend passage by Town Meeting.
Not Recommended	This board voted to not recommend passage by Town Meeting.
No Recommendation	This board voted to make no specific recommendation to Town Meeting.
Deferred	A recommendation will be made by this board when the Article is considered at Town Meeting.



*Town of Acton
Commonwealth of Massachusetts, ss.*

To either of the Constables of the Town of Acton, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify the legal voters of said Town of Acton, qualified to vote at Town Meetings for the transaction of Town affairs, to meet at the Acton-Boxborough Regional High School Auditorium, 36 Charter Road in said Acton on **Monday, December 3, 2018 at 7:00 PM**, then and there to act on the following articles:

Articles

Article 1 Amend General Bylaws – Chapter Z – Marijuana Establishments

(Majority vote)

To see if the Town will vote to amend the General Bylaws by adding Chapter Z – Marijuana Establishments, or take any other action relative thereto.

CHAPTER Z – MARIJUANA ESTABLISHMENTS

The operation within the Town of Acton of any marijuana establishment, as defined in Massachusetts General Laws c. 94G, § 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business, is prohibited. This prohibition shall not apply to the sale, distribution, or cultivation of marijuana for medical purposes by a Registered Marijuana Dispensary as defined by and registered under Chapter 369 of the Acts of 2012.

Summary

A majority of voters in Acton voted in favor of Question 4 on the 2016 state election ballot, entitled “Legalization, Regulation, and Taxation of Marijuana.” Subsequently, the Legislature enacted General Law Chapter 94G, Section 3. Under that statute, towns where a majority of ballots were cast in favor of Question 4 must submit any bylaw limiting the type or number of marijuana establishments, or prohibiting such establishments altogether, to voters for approval.

A “yes” vote on this question would prohibit any marijuana establishment, as defined in Chapter 94G, Section 1 of the General Laws, from operating in Acton. The prohibition would apply to marijuana establishments including, without limitation, marijuana cultivators, independent testing laboratories, marijuana product manufacturers, and marijuana retailers. The prohibition would not apply to Registered Marijuana Dispensaries that dispense medical marijuana. If this ballot question is approved, the Cannabis Control Commission — a statewide commission created by the Legislature to promulgate regulations and to review license applications for marijuana establishments — would deny licenses to applicants who propose to operate a marijuana establishment in Acton. A “no” vote disapproves the bylaw, meaning the prohibitions described above would not take effect in Acton.

Direct inquiries to: John S. Mangiaratti, Town Manager: manager@actonma.gov / (978) 929-6611
Selectman assigned: Katie Green: bos@actonma.gov / (978) 929-6611

Recommendations: Board of Selectmen Finance Committee
 No Recommendation **Deferred**

Article 2 Amend Zoning Bylaw – Regulation of Marijuana Retail
(Two-thirds vote)

To see if the Town of Acton will vote to amend the Zoning Bylaw - Section 3, Table of Principal Uses, Principal Use Definitions, and Accessory Use Regulations as follows:

1. In the Table of Principal Uses, insert a new line 3.5.26 as follows:

		RESIDENTIAL DISTRICTS				VILLAGE DISTRICTS					OFFICE DISTRICTS		BUSINESS DISTRICTS		
		R-2, R-4, R-8, R-8/4, R-10 & R-10/8	R-A	R-AA	VR	EAV	EAV2	NAV	SAV	WAV	OP-1	OP-2	KC	LB	PM
3.5 BUSINESS USES															
3.5.26	Marijuana Retailer	N	N	N	N	SPS	SPS	N	N	N	N	N	N	SPS	SPS

INDUSTRIAL DISTRICTS					SP. DIST.	
GI	LI	LI-1	SM	TD	ARC	SITE PLAN
N	N	N	N	N	N	R

2. Under Principal Use Definitions, insert a new Section 3.5.26 as follows:

- 3.5.26 Marijuana Retailer - an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers as defined by Massachusetts General Law Chapter 94G, Section 1.
- 3.5.26.1 No Marijuana Retailer shall be established within 500 feet of an existing public or private school providing education in kindergarten or any of grades 1 through 12.
- 3.5.26.2 All Marijuana Retailers shall be separated from each other by a distance of at least 2,500 feet.
- 3.5.26.3 There shall not be more Marijuana Retailers than 20% of the number of package liquor stores in the Town of Acton, rounded up to the nearest integer, in accordance with Massachusetts General Law Chapter 94G, Section 3.
- 3.5.26.4 The maximum NET FLOOR AREA of any one Marijuana Retailer shall not exceed 5,000 square feet in size.

3. Amend Section 3.2.1, Definition of Agriculture, by inserting after the words “the sale of farm products”, the following new phrase:

“; but not including the growing, cultivation, distribution or dispensation of marijuana”.

[Note – Section 3.2.1 currently reads:

3.2.1 Agriculture – Agriculture or farming as defined in M.G.L Ch. 128, s. 1A; the boarding, keeping or raising of livestock, including horses, as a commercial enterprise; aquaculture; silviculture; horticulture; floriculture; or viticulture; the use of BUILDINGS and STRUCTURES for the primary purpose of these activities; and the sale of farm products (**insertion place for proposed amendment**). The aforesaid uses and activities shall be limited to parcels of 2 acres or more, whereby land divided by a public or private way or a waterway shall be construed as one parcel, and they shall be subject to and in conformance with the definitions, criteria, thresholds, and requirements as they pertain to these activities conducted on not less than 2 acres or not less than 5 acres, respectively, all as set forth in MGL Ch. 40A, s. 3.

Summary

This article defines Marijuana Retailers as a principal use in the Town of Acton and regulates which districts may contain such businesses. According to the article, acceptable zoning districts to operate a Marijuana Retailer include the East Acton Village, East Acton Village 2, Limited Business, and Powder Mill Districts. This proposed amendment also serves to define a buffer zone of 500 feet around all schools, define a buffer zone of 2,500 feet between each Marijuana Retailer, limit the retailer size to 5,000 square feet, and limit the overall number of Marijuana Retailers to the least number exceeding 20% of the number of package stores in Acton. There are currently five (5) package stores in Acton. This amendment affects only the time, place, and manner of Marijuana Retailers, and does not address other types of Marijuana Establishments, such as Marijuana Cultivators, Marijuana Product Manufacturers, Marijuana Testing Facilities, Craft Marijuana Cultivator Cooperatives, and Independent Testing Laboratories. These other Marijuana Establishments would be subject to existing zoning applicable to Manufacturing, Scientific, Industrial or other uses. Agriculture as a use is allowed in every zoning districts and enjoys broad zoning exemption under State law. This article amends the definition of Agriculture specifically excluding the growing, cultivation, distribution or dispensation of marijuana consistent with MGL Ch. 40A, s. 3.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@actonma.gov / (978) 929-6631
Selectman assigned: Janet K. Adachi: bos@actonma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>	<u>Planning Board</u>
	Recommended	Deferred	Recommended

Article 3 Adopt Local Option Excise on Retail Marijuana Sales
(Majority vote)

To see if the Town will vote to accept Massachusetts General Laws, Chapter 64N, Section 3, to impose a local excise on retail sales of marijuana at the rate of 3 percent, or take any other action relative thereto.

Summary

Massachusetts law provides communities the ability to impose an excise of up to 3% on the retail sales of marijuana originating within the municipality by accepting Chapter 64N, Section 3. The Department of Revenue (DOR) will collect the excise at the time it collects the state tax on the sale. The DOR will distribute the collections to the city or town on a quarterly schedule.

Source: <https://www.mass.gov/files/documents/2018/04/09/BUL-2018-3.pdf>

Direct inquiries to: John S. Mangiaratti, Town Manager: manager@actonma.gov / (978) 929-6611
Selectman assigned: Janet K. Adachi: bos@actonma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>
	Recommended	Deferred

Article 4 **Amend Zoning Bylaw – Extension of Marijuana Establishment**
(Two-thirds vote) **Temporary Moratorium**

To see if the Town will vote to amend the Zoning Bylaw to extend the existing temporary moratorium on marijuana establishments, which temporary moratorium is in place to permit appropriate planning by the Town, by amending Section 3.12.3, “Temporary Moratorium,” striking and replacing “December 31, 2018” with the following: “the earliest of (1) the Attorney General’s approval of the Town’s General Bylaw banning recreational marijuana establishments, (2) the Town’s approval of a Zoning Bylaw regulating the time, place, and manner of the sale of recreational marijuana, or (3) June 30, 2019.”, or to take any other action relative thereto.

Summary

At the Town’s December 2017 Special Town Meeting, a two-thirds majority voted to approve a temporary moratorium on the siting of non-medical marijuana establishments using the Town’s zoning powers. The temporary moratorium expires on December 31, 2018. This proposed zoning bylaw simply extends that temporary moratorium in concert with the other proposed measures Acton Town Meeting is considering in 2018 concerning recreational marijuana.

If the Town votes to adopt a General Bylaw prohibiting recreational marijuana establishments in Acton, this Zoning Bylaw will operate to extend the temporary moratorium until the Attorney General approves the General Bylaw ban. If, instead, the Town does not ban recreational marijuana establishments through a General Bylaw, this Zoning Bylaw will extend the moratorium until the Town has used its zoning powers to adopt time, place, and manner regulations for recreational marijuana establishments at either the Special Town Meeting in December 2018 or the Annual Town Meeting in Spring 2019 or, failing that, the temporary moratorium will expire on June 30, 2019.

Direct inquiries to: Roland Bartl, AICP, Planning Director: planning@actonma.gov / (978) 929-6631
Selectman assigned: Katie Green: bos@actonma.gov / (978) 929-6611

Recommendations:	<u>Board of Selectmen</u>	<u>Finance Committee</u>	<u>Planning Board</u>
	Recommended	Deferred	Recommended

And you are directed to serve this Warrant by posting attested copies thereof fourteen days at least before the time of said meeting, in not less than six public places in Town, to be designated by the Board of Selectmen.

Hereof fail not, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at or before the time of said meeting.

Given under our hands at Acton this sixteenth day of November, 2018.

Katie Green, Chair
Joan Gardner, Vice-Chair
Jon Benson, Clerk
Janet K. Adachi
Peter J. Berry

Board of Selectmen

A true copy, Attest:


Constable of Acton

Town Meeting Parliamentary Procedure

Town Meeting is an old and honored tradition in New England. After more than 200 years we can say it still works – it does its job – and hopefully it’s more than a little enjoyable for you, the voters. It’s also the only form of government where the leaders must face the citizenry directly to answer all reasonable queries – and perhaps even some not so reasonable! However, to work well it must have rules of order – and it does. Town Meetings operate under what is generally called “parliamentary procedure” – in our case, as spelled out in Town Meeting Time. Unfortunately, this wonderful little book is widely read only by Moderators, Town Clerks, Town Counsels and a few others with unusual tastes. In addition to such formal procedures Town Meetings also are subject to relatively arbitrary rules of order set forth by the Moderator and precedent. The following information puts forth the most widely used of these “rules of the road” as an effort to help you enjoy and participate in our Town Meetings.

Electronic Voting

In October 2016, Town Meeting approved changes to our bylaws to permit the use of vote counts by electronic means. We will continue to provide electronic voting through the use of the “i-clicker” system. Each voter will be provided a paper card upon checking in with the Town Clerk’s staff, and will exchange this card for a handheld voting device when entering or exiting the auditorium. Voters will also be provided with instructions and answers to frequently asked questions about electronic voting (e-voting). We will do a few “dry-run” votes on fictitious motions as a way to make everyone comfortable with the electronic voting process. I expect that we will use the electronic voting system on all votes where a two-thirds majority is required as well as in instances where I cannot discern the result of a voice vote. Voting results will be declared by the Moderator as required by law and also displayed on the screen in the auditorium. It is my hope that the use of electronic voting will speed up Town Meeting, protect the privacy of the voter, and ensure accurate vote counts in a matter of seconds. For more information on Town Meeting, please see the Town website at <http://www.actonma.gov/townmeeting>.

Moderator’s Rules

These are quite arbitrary, but hopefully are consistently applied:

1. Any registered voter may speak to any article, but all must speak politely and respectfully to other voters and members of town boards. Civility is required at all times.
2. Since many voters may wish to speak, brevity of comment is appreciated. In addition, speakers are encouraged to add new points to the debate as opposed to repeating what others have already stated.
3. Voters may speak to an issue more than once, but generally “first time” speakers will be recognized before “repeaters”.
4. Remember to listen closely to the motion as stated. The motion puts the warrant article “in play” and it is the motion that is voted on, not the article as written in the warrant. However, there should be a strong similarity between motion and article.
5. Most motions must be “seconded”. Seconding motions is an easy way for newcomers to participate in the meeting. One does not even need to stand or be directly recognized. Generally calling out “second” at the right time will suffice.

6. Voting is most often done by voice. As the Moderator’s hearing fails, “standing” counts may be taken. The last resort, due to time constraints, is to take a counted vote by teller.
7. Although not encouraged, the Moderator’s judgment can be questioned as to the accuracy of the vote as announced. If seven (7) people request a “recount” of a voice or standing votes, it shall be done.
8. The Moderator will generally accept the motion to “move the previous question”, or more easily understood, “to cut off debate.” Many people think this motion is somewhat unfair, but it has been my experience that, more often than not, it is passed unanimously or by overwhelming numbers. In the past, the Moderator has been accused of knowing who plans to make such a motion – generally such accusations are accurate!
9. After a motion has been made and seconded, the mover of the motion speaks first, followed by the appropriate Town Boards (generally the Selectmen and the Finance Committee) who state their opinions. The motion is then available for general discussion – pro, con, or questions.
10. Other than when seconding a motion or requesting a point of order, speakers must be recognized by the Moderator before they launch into their point or question. For the most part this “rule of the road” is rigorously enforced.

More Formal Parliamentary Procedure

There are many types of motions that may come before a meeting. The table below is far from all-inclusive, but indicates the most commonly used motions.

Motion	Second Required	Debatable	Amendable	Vote Required	May Reconsider	May Interrupt
Dissolve	Yes	No	No	Majority	No	No
Fix the Time to Adjourn	Yes	Yes	Yes	Majority	Yes	No
Lay on the Table	Yes	No	No	Two-thirds	Yes	No
Previous Question	Yes	No	No	Two-thirds	No	No
Limit Debate	Yes	No	No	Two-thirds	Yes	No
Postpone to a Time Certain	Yes	Yes	Yes	Majority	Yes	No
Amend	Yes	Yes	Yes ¹	Majority	Yes	No
Postpone Indefinitely	Yes	Yes	No	Majority	Yes	No
Point of Order	No	No	No	None	No	Yes
Main Motion	Yes	Yes	Yes	Varies	Yes	No
Reconsider²	Yes	Yes	No	Two-thirds	No	No

1 In Acton, we generally do not accept amendments to amendments – too confusing.

2 Controlled by Town bylaw – 2/3 Vote same night; 3/4 Vote, plus posting ensuing nights.

Some of the motions listed above may not be totally understandable in table form only. The following elaboration may help.

The motion to *dissolve* ends the Town meeting and is appropriate only when all business is completed.

Fix the time to adjourn is a motion often made by the Selectmen and indicates when a given Town Meeting session will end and when the next session will begin.

Lay on the table is a motion used to end debate temporarily or permanently on a given motion. A motion laid on the table may remain there forever, or may be retrieved by the appropriate “take from the table” vote.

The previous question cuts off debate immediately and causes a vote on the article or amendment under discussion.

Limit debate is a motion generally used to put a specific time limit on a motion or time limits on individual speakers.

Postpone to a time certain is a motion generally used to rearrange the order of the articles (or a single article) in the warrant.

Amend – Many types of motions can be amended or altered to bring them to an even higher state of perfection. Of course, since amendments are a little like “beauty being in the eye of the beholder,” they sometimes fail to pass. In any event, after the amendment is disposed of by a vote, the primary motion, either so amended or not, comes back to the assemblage for further discussion and vote.

Postpone Indefinitely serves the same basic purpose as laying a motion on the table except that it is debatable and requires only a majority vote. If the postpone motion carries, the motion to which it applies is dead – in parliamentary terms, at least.

Point of Order – Anyone at any time may rise to a point of order and interrupt the speaker, simply stating, “Point of order, Mr. Moderator.” The Moderator will immediately stop discussion, listen to the point of order and rule on its validity. Points of order may relate to many issues, for example, the right of a speaker to the floor, proper procedures, indecorous conduct or rarely, but within the realm of possibility, some error that the Moderator is committing.

Main Motions are made when no other business is pending and are the devices used to bring the warrant articles to the Town Meeting floor for discussion.

Reconsideration may be used to bring an article (or motion) which has already been disposed of back for a second time. If reconsideration is passed, it nullifies the previous vote and the article is re-discussed and re-voted. Many people feel that reconsideration is unfair, but it is a valid procedure and is occasionally used. In Acton, a Town Bylaw controls the vote quantum rather than Town Meeting Time. Anyone who wishes to reconsider a motion, particularly on a different night from the original vote, would be well advised to consult the Town Clerk on proper procedures.

Parliamentary procedure is not really complex, but the rules, like the rules of golf, do not always make sense. However, they should be consistently applied. If they are, then the Town Meeting can conduct its business in both an orderly and a fair fashion.

I hope this small treatise is helpful to you and adds to your understanding and enjoyment of a most precious right – TOWN MEETING.

Peter K. Ashton
Town Moderator



TOWN CLERK

TOWN OF ACTON
472 MAIN STREET
ACTON, MASSACHUSETTS, 01720
TELEPHONE (978) 929-6620
FAX (978) 929-6340
clerk@acton-ma.gov

November 16, 2018

Middlesex, ss.

I have served the warrant for the Special Town Meeting, to be held December 3, 2018 by posting an attested copy of the same at six (6) of the public places of said town fourteen (14) days before the time of holding such meeting as directed.

Constable

Warrants posted in six (6) public places as follows:

Nagog Woods Post Office, Town Hall, West Acton Post Office, Center Post Office, Center Library and Public Safety Facility;

As well as the Town Web Page.

Constable
